

Instructions for NJ-1065

Partnership Return and New Jersey Partnership NJK-1

The New Jersey Gross Income Tax Act does not follow all Federal income tax provisions for partnerships. For New Jersey gross income tax purposes, *all* items of income, expense, gain or loss resulting from the activities of the partnership, regardless of the item's character or category, must be included in the amount reported on Form NJ-1065 as "Partnership Income" and then apportioned to each partner on Schedule NJK-1. Each partner will report its portion of the total partnership income as "distributive share of partnership income" on its individual tax return. Nonresident partners that have income or loss from New Jersey sources are also required to file a tax return to report their share of partnership income. Nonresident partners will have to attach a copy of their Schedule NJK-1 to claim credit for the tax paid on their behalf.

The partnership income information required to be reported on this form is needed to: (1) adjust certain items of Federal income to conform to the New Jersey Gross Income Tax Act, and, (2) separate income derived from New Jersey sources from amounts derived from all sources. These adjustments and allocations provide the basis for the reporting of partnership income by both New Jersey resident partners and nonresident partners.

The amounts reported by the partnership on Federal Schedule K may require adjustments to ensure that all income, expense, gain or loss is ultimately reported by the partners as distributive share of partnership income on the New Jersey income tax return. For example, interest, dividends, rents, gains or losses earned are to be combined with Federal ordinary income (loss) to arrive at New Jersey partnership income (loss).

For taxable years beginning on or after January 1, 2004 and for assets placed in service on or after January 1, 2004, if federal income included deduction of federal special depreciation allowance or IRC Section 179 expense; federal Section 179 recapture income; or a gain or loss on disposition of such asset then a New Jersey depreciation adjustment is required. Use Gross Income Tax Depreciation Adjustment Worksheet, GIT-DEP, to calculate the adjustment and include the net adjustment on either line 13b or 15g. This worksheet is available on the Division's website.

If the partnership has operations outside New Jersey, all income, gain or loss derived from sources other than real property must be allocated according to the business allocation percentage as determined by the Business Allocation Schedule (Form NJ-NR-A) unless permission has been granted to use a substitute method of allocation. Income, gain or loss attributable to real property that is physically located in New Jersey must be allocated entirely to this State. If the partnership is not a "qualified investment partnership", an "investment club", or is not listed on a United States national stock exchange, but it has a nonresident noncorporate or a nonresident corporate partner and it has operations outside New Jersey, it must also complete Schedule J "Corporation Allocation Schedule" and file it with Form NJ-1065 Partnership Return and pay any applicable tax due. Schedule J is not required for a partnership that meets hedge fund status, if its only nonresident partners are individuals, estates or trusts.

Most entities classified as partnerships for federal income tax purposes that have income or loss derived from New Jersey sources and that have more than two owners shall make a payment of a filing fee of \$150 for each owner up to a maximum of \$250,000. The filing fee is due on or before the 15th day of the fourth month succeeding the close of each privilege period. An installment payment equal to 50% of the filing fee is also required at the same time.

All choices affecting the computation of income from a partnership are made by the partnership, not each partner. This includes the choice of recognized methods of accounting, methods of computing depreciation, capitalization of organizational fees and the use of the installment sale provisions. It also includes the classification of income and the allocation of income to New Jersey. All partnership elections are equally applicable to all partners.

General Instructions

Partnership Defined - For tax purposes “partnership” means and shall include a syndicate, group, pool, joint venture and any other unincorporated organization through or by means of which any business, financial operation or venture is carried on and which is not a corporation, trust or estate within the meaning of the New Jersey Gross Income Tax Act. Only entities that qualify for and elect to be treated as a partnership for Federal tax purposes (for example limited liability companies and limited liability partnerships) shall be treated as partnerships under the New Jersey Gross Income Tax Act.

“Tiered” Partnerships - are arrangements wherein one partnership, the upper-tier or “parent” partnership, is a member of, or holds an ownership interest in another partnership (called the lower-tier, or “subsidiary” partnership). Tiered partnerships *must* complete Schedule A, Form NJ-1065 before completing Lines 1 through 11 on the front of Form NJ-1065.

Partner Defined - “Partner” means any owner of a partnership interest.

Nonresident Noncorporate Partner – means an individual, an estate or a trust subject to taxation pursuant to the “New Jersey Gross Income Tax Act” that is not a resident taxpayer or a resident estate or trust under that act.

Nonresident Corporate Partner – means a partner that is not an individual, an estate or a trust subject to taxation pursuant to the “New Jersey Gross Income Tax Act” that is not a corporation exempt from tax pursuant to N.J.S.A. 54:10A-3 and that does not maintain a regular place of business in this State other than a statutory office.

Qualified Investment Partnership – means a partnership that has more than 10 members or partners with no member or partner owning more than a 50% interest in the entity and that derives at least 90% of its gross income from dividends, interest, payments with respect to securities loans, and gains from the sale or other disposition of stocks or securities or foreign currencies or commodities or other similar income (including but not limited to gains from swaps, options, futures or forward contracts) derived with respect to its business of investing or trading in those stocks, securities, currencies or commodities, but “investment partnership” shall not include a “dealer in securities” within the meaning of section 1236 of the Federal Internal Revenue Code of 1986.

Hedge Fund Status – is met for New Jersey tax purposes if the investment entity's only activity is the purchase, holding or sale of intangible personal property, such as commodities or securities and such intangible personal property is not held for sale to customers as defined at N.J.S.A. 54A:5-8c. A partnership that qualifies for hedge fund status in one year may not meet the requirements every

year. The entity must evaluate its situation on a yearly basis. The entity, not the partner, must make the determination.

Investment Clubs – are usually small groups of individuals who pool their money to invest in stock or other securities. The group usually operates informally with members pledging to pay a regular amount into the club monthly. Some clubs have a committee that gathers information on securities, selects the most promising securities, and recommends that the clubs invest in them. Most clubs require all members to vote for or against all investments, sales trades, and the other transactions.

Investment clubs recognize as their main source of income interest, dividends, and gains on disposition of their stock and securities and usually meet hedge fund status. Investment clubs generally are not considered a business. An investment club is required to file a New Jersey Partnership Form NJ-1065 but is not entitled to deduct any expenses (unless it rises to the level of being in business). The member or partner of the investment club will report their share of the investment club's income or loss as "distributive share of partnership income".

If an “investment club” meets the following criteria, it will be exempt from the \$150 per owner annual partnership filing fee and from the requirement that a partnership make payments on behalf of its nonresident owners. The “investment club” must be an entity that is classified as a partnership for federal income tax purposes, all of the owners are individuals and all of the assets are securities, cash, or cash equivalents. The market value of the total assets of which do not exceed, as measured on the last day of its privilege period, an amount equal to the lesser of \$258,900 or \$36,300 per owner of the entity. The investment club is not required to register itself or its membership interests with the federal Securities and Exchange Commission.

Who Must File

Every partnership that has income or loss derived from sources in the State of New Jersey, or has a New Jersey resident partner, must file Form NJ-1065. A partnership must file even if its principal place of business is outside the State of New Jersey. Form NJ-1065 is no longer solely an information return. A filing fee and tax may be imposed on the partnership. Partners subject to the gross income tax still must report and pay tax on their share of partnership income or loss.

How to File

NJ-1065 filers that have ten or more partners are now required to file and make payment by electronic means. To obtain the electronic filing and payment formats or to obtain additional information on electronic filing and payment options visit the New Jersey Division of Revenue Website at

<http://www.state.nj.us/treasury/revenue> or call the Alternate Filing Branch at 609-633-1132.

NJ-1065 filers that have less than ten partners have the option to file and make payment by electronic means or on paper.

What to File

The following forms and statements must be included with Form NJ-1065:

- Pages 1 through 4 of the Federal Form 1065, Federal Form 8825, Federal Schedule D and any Federal extension request forms filed
- A Schedule NJ-NR-A if any of the following conditions apply: (1) the partnership is doing business both inside and outside of New Jersey, or (2) 100% of the partnership's business is carried on outside of New Jersey.
- A Schedule J "Corporation Allocation Schedule" for tax remittance purposes, if you are **not** a "qualified investment partnership", "investment club", or that is **not** listed on a United States national stock exchange, but you have a nonresident noncorporate partner or a nonresident corporate partner. Schedule J is not required for a partnership that meets hedge fund status, if its only nonresident partners are individuals, estates or trusts.
- Schedule J "Corporation Allocation Schedule" is required if the partnership includes nonresident partners who do not have physical nexus to New Jersey and the partnership wishes to allocate the filing fee.
- Worksheet GIT-DEP "Gross Income Tax Depreciation Adjustment Worksheet" if applicable.

The Division may require that the complete Federal Form 1065 including all schedules and supporting attachments be submitted during the course of an audit.

If at any time during the course of an audit the Division deems it necessary, the partnership must make a Schedule NJK-1 available for all partners, as well as Form NJ-1065E.

Form PART-200-T "Partnership Tentative Return and Application for Extension of Time to File" or Form PART-100 "Partnership Return Voucher" with applicable payment for filing fee and/or tax due must also be filed.

When to File

Returns for calendar year 2004 are due April 15, 2005. Fiscal year returns are due the 15th day of the fourth month after the end of the tax year.

Any short period return must be filed by the due date of the Federal Form 1065. The partnership should use the most current form available from the Division of Taxation.

Postmark Date. All New Jersey income tax returns postmarked on or before the due date of the return are considered to be filed on time. Returns postmarked after the due date are

deemed to be late. The filing date for a late return is the day the return is received by the Division, not the postmark date.

Where to File

Mail your completed Form NJ-1065 to:

NJ DIVISION OF TAXATION
REVENUE PROCESSING CENTER
PO BOX 194
TRENTON NJ 08646-0194

Extension of Time to File

If an extension is obtained for filing Federal Form 1065, then an automatic extension is granted for submitting your Form NJ-1065. A copy of your application(s) for Federal extension, Federal Forms 8736 or 8800, must be filed with your New Jersey return. Check the box labeled "Application for Federal Extension is attached" at the top of Form NJ-1065.

If you did not obtain a Federal extension and you need more time to file your New Jersey Form NJ-1065, Federal Form 8736 or 8800 must be submitted as your request to New Jersey on or before the original due date of the return.

In addition, any partnership that has a filing fee or tax due must file Form PART-200-T, "Partnership Tentative Return and Application for Extension of Time to File". The applicable payment must accompany this form. Form PART-200-T must be postmarked on or before the original due date for the return.

If you file Form PART-200-T "Partnership Tentative Return and Application for Extension of Time to File," you must also file Form PART-100 "Partnership Return Voucher" when you file Form NJ-1065.

An extension of time to file Form NJ-1065 does not extend the time for filing the tax returns of the partners.

Accounting Method

A partnership's accounting method(s) used for Form NJ-1065 shall be the same as the accounting methods(s) used for Federal Form 1065.

Accounting Periods

The 2004 Form NJ-1065 should be used for calendar year 2004, or for a fiscal year, which began in 2004. If filing for a fiscal year or a short tax year, enter at the top of Form NJ-1065 the month and day the tax year began, and the month, day and year that it ended. The partnership's tax year for New Jersey income tax purposes must be the same as its tax year for Federal income tax purposes.

Passive Loss Limitations

Passive loss limitations do not apply for New Jersey gross income tax purposes. The full amount of current loss may be used to offset income or gain, regardless of Federal passive loss limitations

Determining Gain or Loss on the Sale or Disposition of Partnership Assets, *Koch* Effect

The partnership in determining gain or loss, for New Jersey purposes, on the sale or disposition of partnership asset(s) **must** use the same basis in the asset(s) as used for federal tax purposes. The New Jersey Supreme Court's decision in *Sidney & Dorothy Koch v. Director Division of Taxation* does not apply to the sale, disposition or liquidation of assets by a partnership.

Gains or losses incurred by a partnership are passed through to the partners to be reflected on their respective New Jersey tax returns. Partners who are taxpayers subject to New Jersey Gross Income Tax will report this gain or loss as a component of their "Distributive share of partnership income".

Resident taxpayers that sell or dispose of a partnership interest may be entitled to a *Koch* type adjustment, to their federal basis in the partnership, when determining New Jersey gain or loss. The gain or loss on the sale or disposal of the partnership interest will then be reflected on the taxpayer's New Jersey return in the category of income "Net gains or income from disposition of property". The sale or disposition of a partnership interest is the only time a partner, that is a taxpayer for Gross Income Tax purposes, can make *Koch* type basis adjustments.

Forms and Assistance

New Jersey tax forms may be obtained by:

- Calling our Automated Forms Request System at: 1-800-323-4400 (Touch-tone phones within New Jersey) or 609-826-4400 (Touch-tone phones anywhere)
- Calling NJ TaxFax at 609-826-4500 from your fax machine's phone to have forms faxed to you at any time
- Downloading the needed forms from our Web site at <http://www.state.nj.us/treasury/taxation/>
- Writing to
NJ DIVISION OF TAXATION
TAXPAYER FORM SERVICES
PO BOX 269
TRENTON NJ 08695-0269
- Photocopying the needed forms from reproducible copies available in most public libraries.

Assistance from a Division representative is available Monday through Friday from 8:30 a.m. to 4:30 p.m. by contacting the Division's Customer Service Center at 609-292-6400.

Electronic Filing Assistance

Electronic filing assistance can be obtained by:

- Calling the Alternative Filing Branch at 609-633-1132.
- Downloading the needed formats from the New Jersey Division of Revenue Website at:

<http://www.state.nj.us/treasury/revenue>

Amended Return or Federal Change

An amended Form NJ-1065 must be filed if an amended Federal Form 1065 return is filed, or if the Internal Revenue Service changes or corrects any item of income, gain or loss previously reported. The amended New Jersey return shall be filed within 30 days of the date the amended Federal Form 1065 is filed or, in the case of a Federal audit, within 90 days after the final determination of the change. Where an amendment to Form NJ-1065 results in a need to amend the Schedules NJK-1, an amended Schedule NJK-1 must be forwarded to the Division of Taxation and to each partner.

An amended Form NJ-1065 and an amended Schedule NJK-1 for each partner must also be filed to correct any error on or reflect any change to the original Form NJ-1065, whether or not an amended Federal Form 1065 was filed for that year.

To amend your original Form-1065, get a blank Form NJ-1065 for the tax year that is to be amended and check the "Amended Return" box at the top of the form. Complete the form entering the corrected information and attach an explanation of the changes. Mail amended partnership returns to:

NJ DIVISION OF TAXATION
REVENUE PROCESSING CENTER
PO BOX 194
TRENTON NJ 08646-0194

Penalty and Interest Charges

The Division may impose a penalty against the partnership if the partnership is required to file Form NJ-1065 and (1) fails to file the return on time, including any extension, (2) files a return that fails to show all the information required, (3) fails to file electronically when there are ten (10) or more partners, or (4) fails to file an amended partnership return within 90 days of the date a final Federal determination or disallowance is issued or within 90 days of the date the amended Federal Form 1065 is filed, unless the failure is due to reasonable cause and not due to willful neglect.

A penalty of \$100 for each month or fraction of a month may be imposed for failure to file.

A late filing penalty of 5% per month (or fraction of a month) up to a maximum of 25% of the outstanding tax liability when a return is filed after the due date or extended due date may also be imposed.

A late payment penalty of 5% of the outstanding tax balance may be imposed.

Interest will be computed at 3% above the prime rate for every month or fraction of a month the tax is unpaid, compounded annually. At the end of each calendar year, any tax, penalties, and interest remaining due (unpaid) will become part of the balance on which interest is charged.

Fraudulent Returns

Any person who willfully fails to file a return, files a fraudulent return, or attempts to evade the tax in any manner

may be liable for a penalty not to exceed \$7,500 or imprisonment for a term between three years and five years, or both.

Rounding Off to Whole Dollars

Money items on the return and schedules may be shown in whole dollars (eliminate amounts under 50 cents; enter amounts over 49 cents as the next higher dollar amount).

Signatures

Form NJ-1065 is not considered to be a return unless signed, either by a general partner, limited liability company member or, if applicable, a receiver, trustee in bankruptcy, or assignee.

Anyone who prepares a partnership return for a fee must sign the return as a "Paid Preparer" and must enter his or her social security number or federal practitioner tax identification number. The company or corporation name and Federal Employer Identification Number, must be included, if applicable. The preparer required to sign the partnership return must sign it by hand; **signature stamps or labels are not acceptable**. If someone prepares the return at no charge, the paid preparer's area need not be completed. A tax preparer who fails to sign the return or provide a correct tax identification number may incur a \$25 penalty for each omission.

Composite Return for Qualified Electing Nonresident Partners

A partnership which has New Jersey source income may file a composite return (Form NJ-1080C) on behalf of its qualified

nonresident partners who elect to be included in the composite filing. Tax will be calculated for 2004 at a flat rate of 8.97% without regard to each partner's filing status, dependent exemptions, or deductions for alimony or medical expenses. Composite estimated tax payments should also be made.

A partner may not participate in the composite return if:

- The partner is an estate or trust;
- The partner is a partnership or corporation;
- The partner files on a fiscal year basis;
- The partner is a New Jersey resident during any part of the year;
- The partner derives income from New Jersey sources other than the income from this or any other composite return.

Every participating partner must make the election to be part of the composite return in writing each year. The elections must be maintained in the partnership files. When filed, the composite return must include a list of the partners who are participating, as well as a list of those who have not elected, or are not qualified, to participate in the composite return. The list must include each partner's name, address and Federal Identification Number.

If a composite return is filed, check the box labeled "Composite Return is filed for Nonresident Partners" at the top of Form NJ-1065.

If the partnership has made timely, quarterly estimated payments for the composite return (Form NJ-1080C), check the box labeled "Quarterly Form NJ-1080C Payments" at the top of Form NJ-1065.

Line By Line Instructions

Reporting Period

If you are reporting for a period other than calendar year 2004, enter the beginning and ending dates of your fiscal year.

Partnership Name, Address, Identification

Enter the exact legal name, trade name, if any, and address of the partnership. The legal name is the name in which the business owns property or acquires debt. Enter the trade name, registered alternate name, (d/b/a name) if different from the partnership's legal name.

Enter the partnership's Federal Employer Identification Number (FEIN), principal business activity and date the business was started.

Enter the number of resident partners and the number of non-resident or foreign partners in the spaces provided. Each partner's residency status must be determined as of the close of the partnership's tax year.

Check the appropriate boxes to indicate whether the return is a(n)

- Initial return;
- Final return; or
- Amended return.

Check the appropriate boxes to indicate if

- An application for a Federal extension is attached;
- Permission has been granted for a substitute method of allocation;
- This is a Qualified Investment Partnership;
- This partnership is listed on a United States national stock exchange;
- The partnership meets hedge fund status;
- This is an Investment Club that is exempt from the filing fee and the requirement that a partnership make payments on behalf of its nonresident owners in accordance with the criteria outlined in the "General Instructions;"
- A composite return is filed for nonresident partners;
- Estimated payments were made on a timely, quarterly basis for the composite return;
- This is a Tiered Partnership;

- This is a General Partnership;
- This is a Limited Partnership;
- This is a Limited Liability Company; or
- This is a Limited Liability Partnership.

Federal Partnership Income (Lines 1 – 11)

Note: Tiered Partnerships must complete Schedule A before completing the front of Form NJ-1065.

Line 1 - Ordinary Income (Loss) from Trade or Business Activities

Enter on Line 1 the amount of ordinary income or loss derived from the partnership's trade or business activities. This will be the amount reported on Line 1, Schedule K, Federal Form 1065.

Line 2 - Net Income (Loss) from Rental Real Estate Activities

Enter on Line 2 the net income or loss from rental real estate activities (attach a copy of your Federal Form 8825). This will be the amount reported on Line 2, Schedule K, Federal Form 1065.

Line 3 - Net Income (Loss) from Other Rental Activities

Enter on Line 3 the net income or loss from other rental activities. This will be the amount reported on Line 3c, Schedule K, Federal Form 1065.

Line 4 - Guaranteed Payments to Partners

Enter on Line 4 the amount of guaranteed payments to partners reported on Line 4, Schedule K, Federal Form 1065.

Line 5 - Interest Income

Enter on Line 5 the amount of interest income reported on Line 5, Schedule K, Federal Form NJ-1065.

Line 6 - Dividend Income

Enter on Line 6 the amount of dividend income reported on Line 6, Schedule K, Federal Form 1065.

Line 7 - Royalty Income

Enter on Line 7 the royalty income reported on Line 7, Schedule K, Federal Form 1065.

Line 8 - Net Gain (Loss) from Disposition of Property

Enter on Line 8 the total of the net short-term and long-term gains and/or losses reported on Lines 8 and 9, Schedule K, Federal Form 1065. Attach a copy of Schedule D, Federal Form 1065.

Line 9 - Net IRC Section 1231 Gain (Loss)

Enter on Line 9 the net IRC Section 1231 gain or loss reported on Line 10, Schedule K, Federal Form 1065.

Line 10 - Other Income (Loss)

Enter on Line 10 any other income or loss that is not included on Lines 1 through 9 above. This will include the amount reported on Line 11, Schedule K, Federal Form 1065.

If any amount is reported on this line you must attach a schedule identifying the income or loss.

Line 11 - Tax Exempt Interest Income

Enter on Line 11, the amount of tax-exempt interest income reported on Line 18a, Schedule K, Federal Form 1065.

Line 12 - Subtotal

Add Lines 1 through 11 above and enter the result on Line 12.

New: For taxable years beginning on or after January 1, 2004 and for assets placed in service on or after January 1, 2004, if federal income included deduction of federal special depreciation allowance or IRC Section 179 expense; federal Section 179 recapture income; or a gain or loss on disposition of such asset then a New Jersey depreciation adjustment is required. Use Gross Income Tax Depreciation Adjustment Worksheet, GIT-DEP, to calculate the adjustment and include the net adjustment on either line 13b or 15 g. This worksheet is available on the Division's website.

NEW JERSEY ADDITIONS

Line 13a - Taxes Based on Income

Enter on Line 13a the amount of taxes based on income which were deducted to determine ordinary income (loss) on Line 1 above.

Line 13b - Other Additions - Specify

Enter on Line 13b any other items deducted from or not included on Lines 1 through 11 above, which are not excludable under the New Jersey Gross Income Tax Act. Include the net addition adjustment from Worksheet GIT-DEP.

Specify each item reported. If the amount reported on Line 12, Form NJ-1065 included any loss incurred in connection with the disposition of exempt New Jersey or Federal obligations, you must add back the amount of such loss on this line.

Line 13c - Total Additions

Add Lines 13a and 13b and enter the result on Line 13c.

Line 14 - Subtotal

Add Lines 12 and 13c and enter the result on Line 14.

NEW JERSEY SUBTRACTIONS

Line 15a - Net Income (Loss) from Rental Real Estate Activities - Enter on Line 15a any income or loss that resulted from rental real estate activities and is included in the amount reported on Lines 1 or 2 above

Line 15b - Net Gain (Loss) from Disposition of Real Property Enter on Line 15b any gain or loss that resulted from the sale, exchange or disposition of real property and is included in the amount reported on Lines 1, 7 or 9 above.

Line 15c - Guaranteed Payments to Partners

Enter on Line 15c the amount of guaranteed payments to partners reported on Line 4 above.

Line 15d - Interest Income from Federal Obligations

Enter on Line 15d any interest from Federal obligations that is excludable from New Jersey gross income and was included in the amount reported on Lines 5 or 6 above.

Line 15e - Interest Income from New Jersey Obligations

Enter on Line 15e the amount of interest income from New Jersey obligations that is excludable from New Jersey gross income and was included in the amount reported on Lines 6 or 11 above.

Note: Lines 15d and 15e - Amounts excludable from income include interest and dividends on obligations of the State of New Jersey or any of its political subdivisions and from tax exempt obligations of the United States government, its territories or instrumentalities. Distributions from New Jersey *qualified investment funds* are also exempt, as are distributions from other investment funds, but only to the extent the distribution is derived from obligations of the type described at N.J.S.A. 54A:6-14, et seq.

Line 15f - Smart Moves for Business Programs Tax Deduction

A partnership which has registered with the New Jersey Department of Transportation, has an authorized plan to provide commuter transportation benefits, and has incurred direct expenditures attributed to such plan, shall be entitled to reduce total partnership income distributed to its partners. The amount of the reduction shall be the lesser of 157 percent of the amount of commuter transportation benefits provided pursuant to law or \$1,994 for each employee receiving such benefits.

Eligible partnerships must obtain and complete New Jersey Form 307 in order to determine the amount of the ride share deduction. The completed form must be attached when Form NJ-1065 is filed.

Line 15g - Other Subtractions - Specify

Enter on Line 15g any other items which are excludable or deductible from the income included in the subtotal reported on Line 12 above for New Jersey gross income tax purposes. Specify each item subtracted.

Examples of some items that might be reported on this line are:

- Dividends from exempt Federal and New Jersey obligations described at N.J.S.A. 54A:6-14.
- Gains from the sale of exempt Federal and New Jersey obligations excludable pursuant to N.J.S.A. 54A:5-1c.

- The remaining 50% of business meals and entertainment expenses that are not deductible for Federal purposes.
- Net subtraction from Worksheet GIT-DEP.

Note: A partnership is not entitled to a basis adjustment in the calculating and reporting of partnership gain or loss from the sale or disposition of partnership assets as was extended to individuals, as in the *Koch* case, on the sale or disposition of a partnership interest. The partnership must always use federal adjusted basis when determining gain or loss. Only taxpayers as defined pursuant to N.J.S.A. 54A:1-2.1 are entitled to a *Koch* type adjustment.

Line 15h - Total Subtractions

Total Lines 15a through 15g, and enter the result on Line 15h.

Line 16a - Subtotal

Subtract Line 15h from Line 14 and enter the result on Line 16a.

NEW JERSEY ALLOCATED INCOME**Line 16b - New Jersey Allocated Adjusted Partnership Income**

Form NJ-NR-A must be completed by every partnership entity, including those that have met hedge fund status, that is not reporting 100% of its activity to New Jersey or that has not been granted permission to use a substitute method of allocation. Failure to file Form NJ-NR-A or to check the box that a ***substitute method of allocation has been granted*** may result in 100% of your partnership's income or loss being sourced to New Jersey.

Enter the business allocation percentage from Line 5, Form NJ-NR-A in the box provided on Line 16b. *A percentage must be entered unless you have been granted permission to use a substitute method of allocation. If permission has been granted, leave the box on Line 16b blank and enter the actual New Jersey source amount.* Enter 100% if all partnership activities are carried on in New Jersey or 0% if all partnership activities are carried on outside New Jersey or if the partnership has met hedge fund status. Multiply the amount on Line 16a by this percentage and enter the result on Line 16b, Column B.

Where a partnership's activity is carried on both within and outside of New Jersey, the portion of the partnership's income, gains, expenses or losses attributable to sources within New Jersey shall, except as provided below, be determined by use of the New Jersey Business Allocation Schedule (Form NJ-NR-A), as prepared by the partnership.

Where a partnership's activity is carried on both within and outside of New Jersey and the partnership believes that the

determination of the portion of the partnership's income, gains, expenses or losses attributable to sources within New Jersey by use of the New Jersey Business Allocation Schedule does not provide an equitable allocation of such items, and the books and records of the partnership will disclose to the Director's satisfaction a more appropriate method of allocating such items, the partnership may request from the Director an exception from the use of the New Jersey Business Allocation Schedule. Such request shall be made *in writing* to:

CHIEF, INDIVIDUAL INCOME TAX AUDIT BRANCH
BUSINESS ALLOCATION EXEMPTION
PO BOX 288
TRENTON NJ 08695-0288

Your request for exception from the use of the New Jersey Business Allocation Schedule must set forth the basis of the request and the substitute method of allocation requested to be used in lieu of the New Jersey Business Allocation Schedule. The substitute method of allocation may not be utilized prior to the submission of the partnership's exception request and the approval of such request by the Director. The partnership's exception request, once approved, shall be made every three years, unless the Director or the partnership requests a change sooner.

Note: A partnership that is *not* a "qualified investment partnership", "investment club", or that is *not* listed on a United States national stock exchange, but has a *nonresident noncorporate partner* or a *nonresident corporate partner* must also complete Schedule J "Corporation Allocation Schedule." Schedule J is not required for a partnership that meets hedge fund status, if its only nonresident partners are individuals, estates or trusts. Schedule J is to be completed based on the partnership entity's information, not the nonresident partner's information. The corporation business allocation factor will be reported on Line 1 of the Partners Directory. Schedule J is required if the partnership includes nonresident partners who do not have physical nexus to New Jersey and the partnership wishes to allocate their filing fee.

Line 17 – Net Income (Loss) from Rental Real Estate Activities

Enter on Line 17, Column A, the amount of net income or loss from rental real estate activities that was reported on Line 15a, above.

Enter on Line 17, Column B, the portion of the amount reported in Column A that was derived from real property physically located in New Jersey.

Line 18 - Net Gain (Loss) from Disposition of Real Property

Enter on Line 18, Column A, the amount of gain or loss from the disposition of real property reported on Line 15b, above.

Enter on Line 18, Column B, the portion of the amount reported in Column A that was derived from the disposition of real property physically located in New Jersey.

Line 19 – Net Partnership Income (Loss)

Add Lines 16a, 17 and 18, Column A, and enter the sum on Line 19, Column A.

Add Lines 16b, 17 and 18, Column B, and enter the sum on Line 19, Column B.

Line 20 - Income (Loss) from Tiered Partnership(s)

Enter on Line 20, Column A, the amount, if any, of income or loss from other partnerships as reported on Line 13, Column A of Part II, Schedule A, Form NJ-1065.

Enter on Line 20, Column B, the amount, if any, of income or loss from other partnerships as reported on Line 13, Column B of Part II, Schedule A, Form NJ-1065.

Line 21 – Partnership Income (Loss)

Add Lines 19 and 20, Column A, and enter the sum on Line 21, Column A.

Add Lines 19 and 20, Column B, and enter the sum on Line 21, Column B.

Line 22a - Guaranteed Payments to Partners

Enter on Line 22a the amount of guaranteed payments to partners reported on Line 15c of Form NJ-1065 (above).

Line 22b - Guaranteed Payments to Partners - Pension

Enter on Line 22b the amount of guaranteed payments to retired partners who are receiving such payments as a result of a period of service to the partnership pursuant to a retirement agreement or pension plan.

Line 22c – Net Guaranteed Payments to Partners

Subtract the amount on Line 22b from the amount on Line 22a and enter the result on Line 22c, Column A.

Multiply the amount from Line 22c, Column A by the business allocation percentage on Line 16b, Form NJ-1065 (above). Enter the result on Line 22c, Column B.

If a substitute method of allocation was granted, enter the actual New Jersey source amount.

Line 23 - Total Nonresident Noncorporate Partners Share of Tax

Enter on Line 23, Column B, the total nonresident noncorporate partners share of tax reported on Line 2c, Column J of the Partners Directory.

Line 24 - Total Nonresident Corporate Partners Share of Tax

Enter on Line 24, Column B, the total nonresident corporate partners share of tax reported on Line 2c, Column K of the Partners Directory.

Partners Directory

PARTNERS DIRECTORY

List the partners in order of their ownership interest in the partnership, beginning with the partner who holds the largest share.

Note: A partnership that is a “qualified investment partnership”, an “investment club”, or that is listed on a United States national stock exchange does not have to complete Schedule J “Corporation Allocation Schedule.” A partnership that meets hedge fund status and whose only nonresident partners are individuals, estates or trusts does not have to complete Schedule J. All other partnerships that have nonresident noncorporate partners or nonresident corporate partners **must complete Schedule J “Corporation Allocation Schedule”** and file it with Form NJ-1065 Partnership Return. They must also complete columns H, I, J and K on the Partners Directory for each **nonresident noncorporate and nonresident corporate partner**.

Line 1 - Corporation Allocation Factor

Enter the allocation factor from Line 5 of Schedule J “Corporation Allocation Schedule” on Line 1 of the Partners Directory.

If you are a “qualified investment partnership,” “investment club”, listed on a United States national stock exchange; or meet hedge fund status whose only nonresident partners are individuals, estates or trusts, enter zero.

Column A: Enter each partner’s ownership percentage as of the close of the taxable year. If a partner disposed of all or part of an ownership interest during the year, list the partner by the ownership percentage before the disposition.

Column B: Enter a “Y” if this is the final Schedule NJK-1 for the partner.

Column C: Use the following codes to identify the partner’s residency status and type:

- RI - New Jersey Resident Individual
- NR - Nonresident Individual
- NRC - Nonresident Individual (see below)
- PI - Part Year Resident Individual
- RP - New Jersey Resident Partnership
- NP - Nonresident Partnership
- NPM - Nonresident Partnership (see below)
- RT - New Jersey Resident Trust
- NT - Nonresident Trust
- RE - New Jersey Resident Estate
- NE - Nonresident Estate
- RC - New Jersey Corporation
- FC - Non-New Jersey Corporation
- FCM - Non-New Jersey Corporation (see below)
- EFC - Exempt Foreign Corporation

- RO - New Jersey Resident Other
- NO - Nonresident Other
- NOM - Nonresident Other (see below)

Code NRC is used to identify a nonresident individual partner who participates in the partnership’s composite return and the partnership has made estimated payments on a timely, quarterly basis for the composite return.

Codes NPM, FCM and NOM are used to identify nonresident partners that maintain a regular place of business in New Jersey other than a statutory office. No tax is required on their behalf or on the behalf of an exempt foreign corporation (EFC).

For codes NPM, FCM, NOM and EFC the partnership must obtain and retain in its files a fully completed and signed Form NJ-1065E. The form is valid for one return period and a new form must be filed with the partnership for any subsequent return periods. If at any time during the course of an audit, the Division deems it necessary, the partnership must make the form(s) available.

Attach a rider to explain the partner’s entity type in detail for codes RO, NO and NOM.

Column D: Enter each partner’s Social Security Number (SSN) for individual partners or Federal Employer Identification Number (FEIN) for partners which are entities other than individuals, as well as each partner’s name and address. **For individuals, the statute requires that the address be that of the person’s principal residence.** If the partner is an entity other than an individual, enter the partner’s business name. For corporations, enter the address of commercial domicile.

Note: The amounts listed in Columns E and F represent the distributive share of partnership income (loss) that the partners who are subject to Gross Income Tax are required to report on their tax returns. Columns E and F reflect the adjustments allowed for Gross Income Tax purposes that are reported on page 1 of Form NJ-1065. The amounts listed in Columns H and I represent the nonresident partner’s share of income for which the partnership is required to remit tax. Columns H and I do not reflect any adjustments. The amounts reported in Columns E and F may differ from the amounts reported in Columns H and I.

Column E: Enter each partner’s Distributive Share of Partnership Income or Loss from Line 4, Column A of their Schedule NJK-1.

Column F: Enter each partner’s Distributive Share of Partnership Income or Loss from Line 4, Column B of their Schedule NJK-1.

Column G: Enter each partner’s share of Pension income from Line 5, Column A of their Schedule NJK-1.

Column H: Enter each nonresident noncorporate (codes NR, NT and NE) partner's share of total income or loss. No entry is required if the partnership is a "qualified investment partnership", "investment club" is listed on a United States national stock exchange; or if the partnership meets hedge fund status and has checked the appropriate boxes on the front of Form NJ-1065.

No entry is required if the nonresident individual partner participates in the partnership's composite return and the partnership has made estimated payments on a timely, quarterly basis for the composite return.

Enter each nonresident corporate (codes NP, FC and NO) partner's share of total income or loss. No entry is required if the partnership is a qualified investment partnership or if it is listed on a United States national stock exchange and has checked the appropriate boxes on the front of Form NJ-1065.

Add Lines 1 through 11, plus any "Tax-exempt interest income" included on Line 18 from their Schedule K-1, Federal Form 1065.

Column I: Enter each nonresident partner's share of New Jersey income. Multiply the amount from Column H by the corporation allocation factor on Line 1 (above). If the amount in Column H is a loss, do not make an entry in Column I.

Column J: Enter each nonresident noncorporate partner's (codes NR, NT and NE) share of tax. Multiply the amount from Column I by 6.37%.

If an amended return is filed and the result of multiplying the amount from Column I by 6.37% is less than the amount reported on the original Partners Directory, report the amount listed on the original Partners Directory. Do **not** report the lesser amount, since the partner is entitled to claim credit for the originally reported amount.

Column K: Enter each nonresident corporate partner's (codes NP, FC and NO) share of tax. Multiply the amount from Column I by 9.0%.

If an amended return is filed and the result of multiplying the amount from Column I by 9.0% is less than the amount

reported on the original Partners Directory, report the amount listed on the original Partners Directory. Do **not** report the lesser amount, since the partner is entitled to claim credit for the originally reported amount.

Line 2a – Total This Page

Total all nonresident partners' share of tax from columns J and K of page 2 of Form NJ-1065.

Line 2b – Total From _____ Additional Pages Attached

Enter the total number of additional pages attached on the line provided. Enter the sum of the totals for columns J and K from each additional page attached.

Line 2c – Total Tax

Add lines 2a and 2b from Columns J and K and enter the results on Line 2c. Carry the total from Column J to Line 23 and the total from Column K to Line 24 on the front of Form NJ-1065.

Signature

The return must be signed and dated by a general partner or limited liability company member.

Anyone who prepares a return for a fee must sign the return as a "Paid Preparer" and enter his or her social security number or federal practitioner tax identification number. Include the company or corporation name and Federal Employer Identification Number, if applicable. A tax preparer who fails to sign the return or provide a tax identification number may incur a penalty of \$25 for each omission.

Note: A partnership that is not required to remit a payment of tax on behalf of its nonresident noncorporate or nonresident corporate partners may still be required to pay a filing fee. Refer to the instructions for the Filing Fee Schedule that is part of both Forms PART-200-T "Partnership Tentative Return and Application for Extension of Time to File" and PART-100 "Partnership Return Voucher" to see if you are required to make a payment.

Line by Line Instructions for Schedule NJK-1

SCHEDULE NJK-1

Individual, trust and estate partners are subject to New Jersey gross income tax on their share of the partnership's income, whether or not the income is actually distributed. Partners who reside in New Jersey are taxed on their share of the partnership's income, regardless of the source of the income. Nonresident partners are also subject to New Jersey gross income tax on their share of the partnership's income, but only to the extent such income is allocated to New Jersey.

Schedule NJK-1 provides each partner with information regarding that partner's share of partnership income. A Schedule NJK-1 must be completed for every partner that was a partner in the partnership at any time during the year.

Partners must be furnished with a copy of their Schedule NJK-1 on or before the due date of the partnership return (Form NJ-1065). If a partnership interest is held by a nominee on behalf of another person, the partnership is required to furnish Schedule NJK-1 to the nominee.

A copy of all NJK-1(s) must be retained by the partnership as part of the partnership's records.

PART I GENERAL INFORMATION

Name and Address

Enter the name and address of both the partner and the partnership. Enter the Federal Employer Identification

Number (FEIN) of the partnership and, if the particular partner is an entity other than an individual, enter the FEIN of the partner as well. If the partner is a person, enter his or her Social Security Number. If the partner is an Individual Retirement Arrangement (IRA), enter the identification number of the *custodian* of the IRA, not the Social Security Number of the person for whom the IRA is maintained.

If a husband and wife each had an interest in the partnership, prepare a separate Schedule NJK-1 for each spouse. If a husband and wife held an interest together as one partner, prepare one Schedule NJK-1.

Classification of Partner

Use the codes shown above in the instructions for Column C of the partner's directory.

Date Partner's Interest in Partnership Began

Enter the month, day, and year the partner obtained an interest in this partnership.

Partner's Profit, Loss, and Capital Sharing Percentages

Enter in Column (ii), the appropriate percentages as of the end of the partnership's year. However, if a partner's interest terminated during the year, enter in Column (i) the percentages that existed immediately before the termination. When the profit or loss sharing percentage has changed during the year, show the percentage before the change in Column (i) and the end-of-year percentage in Column (ii). If there are multiple changes on the profit and loss sharing percentage during the year, attach a statement giving the date and percentage before each change.

"Capital Ownership" means the portion of the capital that the partner would receive if the partnership was liquidated at the end of the year and the undivided interests in the partnership's assets and liabilities were distributed.

PART II INCOME INFORMATION

The amounts reported in Column A, Schedule NJK-1, represent the partner's share of the partnership's income, gain or loss from all sources as reported in Column A, Form NJ-1065. The partner's share shall be determined by the partnership agreement in the same manner as the partner's distributive share of partnership income is determined for Federal income tax purposes. Column A, Schedule NJK-1 must be completed for every partner, regardless of residency.

The amounts reported in Column B, Schedule NJK-1 represent the partner's share of the partnership's income, gain or loss allocated to New Jersey as reported in Column B, Form NJ-1065. Column B, Schedule NJK-1 should be completed for all partners.

Line 1 - Partnership Income (Loss)

Enter on Line 1, Column A, the partner's share of partnership income or loss reported on Line 21, Column A, Form NJ-1065.

Enter on Line 1, Column B, the partner's share of partnership income or loss reported on Line 21, Column B, Form NJ-1065.

Line 2 - Net Guaranteed Payments

Enter on Line 2, Column A, the partner's amount of net guaranteed payments reported on Line 22c, Column A, Form NJ-1065.

Enter on Line 2, Column B, the amount from Column A multiplied by the business allocation percentage from Line 16b, Form NJ-1065.

Line 3 - Partner's 401(k) Contribution

Enter on Line 3, Column A, the amount of the partner's contribution to a 401(k) plan. Contributions in excess of Federal limits and taxable for Federal income tax purposes may not be included on this line.

Enter on Line 3, Column B, the amount from Column A multiplied by the business allocation percentage from Line 16b, Form NJ-1065.

Line 4 - Distributive Share of Partnership Income (Loss)

Add Lines 1 and 2, Column A, then subtract Line 3, Column A from this result. Enter the remainder on Line 4, Column A.

Add Lines 1 and 2, Column B, then subtract Line 3, Column B from this result. Enter this amount on Line 4, Column B.

Line 5 - Pension

Enter on Line 5, Column A, the partner's share of guaranteed payments - pension reported on Line 22b, Column A, Form NJ-1065. The partner to whom the guaranteed payment was made must be receiving the payment as a result of a period of service to the partnership pursuant to a retirement agreement or pension plan.

Make no entry on Line 5, Column B. Pension income to nonresidents is not subject to New Jersey gross income tax.

PART III NONRESIDENT PARTNER'S INFORMATION

Line 1 - Share of New Jersey Tax

Enter on Line 1, Column B, the partner's share of New Jersey tax reported in either Column J or Column K of the Partners Directory.

If an amended Schedule NJK-1 is filed, **do not** report less than the amount reported on the original Schedule NJK-1.

PART IV SUPPLEMENTAL INFORMATION

Attach a separate schedule to provide any detailed information affecting the partner's share of income.

Business Allocation Schedule

General Instructions for Business Allocation Schedule

If business activities are carried on both inside and outside New Jersey, business income may be allocated to determine the amount of income from New Jersey sources. Carrying on business activities outside New Jersey means maintaining, operating or occupying a regular place of business outside New Jersey, such as an office, shop, store, warehouse, factory, agency or other place where the business affairs are systematically and regularly conducted.

The business may not allocate income if it has only an occasional or isolated business transaction outside the State. Likewise, if the business has no regular place of business outside New Jersey, it may not allocate income, even though its representatives travel outside the State for the purposes of performing duties connected with the trade or business, and make sales or perform services for persons or corporations located outside the State.

Be sure that Form NJ-NR-A is firmly attached to Form NJ-1040NR, NJ-1041, or NJ-1065, and that the name and address on the Business Allocation Schedule agree exactly with the name and address on the return to which it is attached.

Line by Line Instructions for Business Allocation Schedule

Section 1 - Business Locations

Use Section 1 to list the locations where the business activities are conducted. In Columns (a) and (b) list the exact locations at which the business carries on activities both inside and outside the State. List **all** business locations. In Column (c) describe the places listed in Columns (a) and (b) (i.e., branch office, agency, factory, warehouse, etc.). In Column (d) indicate whether the business rents or owns each location listed. Attach additional sheets if necessary.

Section 2 - Average Values

Use Section 2 to determine the average value of your business assets.

The average value of property owned is determined by adding (1) the book value of the property at the beginning of the taxable year and (2) the book value of the property at the end of the taxable year and dividing the sum by two.

The average value of property rented or leased is valued at eight times the annual rent. Rent includes any amounts paid in addition to, or accrued in lieu of rent for the period covered by the return (such as interest, taxes, insurance and repairs).

Line 1 - Real Property Owned

Column A

Enter on Line 1, Column A, the average value of the real property listed in Section 1 that was owned for the period covered by the return. Include property located both inside and outside New Jersey.

Column B

Enter on Line 1, Column B, the average value of the real property listed in Section 1 that was owned in the State. Include only property located in New Jersey.

Line 2 - Real and Tangible Property Rented

Column A

Enter on Line 2, Column A, the average value of property, both real and tangible that was rented for the period covered by the return. Include property located both inside and outside New Jersey.

Column B

Enter on Line 2, Column B, the average value of property, both real and tangible that was rented in the State. Include only property located in New Jersey.

Line 3 - Tangible Personal Property Owned

Column A

Enter on Line 3, Column A, the average value of the tangible personal property that was owned and used in the business for the period covered by the return. Include property located both inside and outside New Jersey.

Column B

Enter on Line 3, Column B, the average value of the tangible personal property that was owned and used in the business in the State. Include only property located in New Jersey.

Line 4 - Totals

Column A

Add Lines 1-3 of Column A and enter the total on Line 4, Column A.

Column B

Add Lines 1-3 of Column B and enter the total on Line 4, Column B.

Section 3 - Business Allocation Percentage

Use Section 3 to determine the business allocation percentage that must be applied to business income. The Business Allocation Percentage must be applied to business income from all sources in order to determine the amount from New Jersey sources.

Line 1 - Average Values of Property

Line 1a - In New Jersey

Enter on Line 1a the average values of the business property in New Jersey from Line 4, Column B, Section 2.

Line 1b - Everywhere

Enter on Line 1b the average values of the business property from everywhere (both inside and outside New Jersey) from Line 4, Column A, Section 2.

Line 1c - Percentage in New Jersey

Divide the amount on Line 1a by the amount on Line 1b. The result will be 100% or less. Enter the result on Line 1c.

Line 2 - Total Receipts from All Sales, Services and Other Business Transactions

Line 2a - In New Jersey

Enter on Line 2a the total of receipts from all sales made, services performed and business transactions conducted in New Jersey during the period covered by the return. This includes sales made and services performed by partners, employees, agents, agencies or independent contractors of the business situated at or sent out from, the offices of the business (or its agencies) located in New Jersey. For example, if a salesperson working out of the New Jersey office covers the states of New Jersey, New York and Pennsylvania, all sales made are to be allocated to New Jersey and reported on Line 2a.

Line 2b - Everywhere

Enter on Line 2b the total of receipts from all sales made, services performed and business transactions conducted both inside and outside New Jersey during the period covered by the return.

Line 2c - Percentage in New Jersey

Divide the amount on Line 2a by the amount on Line 2b. The result will be 100% or less. Enter the result on Line 2c.

Line 3 - Wages, Salaries and Other Personal Compensation Paid During the Year

Line 3a - In New Jersey

Enter on Line 3a the total of wages, salaries and other personal compensation paid to employees in connection with operations carried on in New Jersey during the period covered by the return. Compensation is paid in connection with operations carried on in New Jersey if work is based in an office or other place of business located in New Jersey. Include only amounts paid to employees on Line 3a. **Do not include payments to independent contractors, independent sales agents, etc.**

Line 3b - Everywhere

Enter on Line 3b the total compensation paid to employees both inside and outside New Jersey during the period covered by the return. Do not include payments to independent contractors, independent sales agents, etc.

Line 3c - Percentage in New Jersey

Divide the amount on Line 3a by the amount on Line 3b. The result will be 100% or less. Enter the result on Line 3c.

Line 4 - Sum of New Jersey Percentages

Add Lines 1c, 2c and 3c and enter the total on Line 4.

Line 5 - Business Allocation Percentage

Divide the total on Line 4 by three and enter the result on Line 5. Also enter this percentage on the appropriate line of the following returns:

Part IV, Form NJ-1040NR

Line 16b, Form NJ-1065

Schedule F, Form NJ-1041

If one of the fractions (property, receipts or payroll) is missing, the other two percentages are added and the sum is divided by two. If two of the fractions are missing, the remaining percentage may be used as the allocation factor. A fraction is not missing merely because its numerator is zero, but is missing if its denominator is zero.